

REMARKS

Status of the claims

With the above amendments, claims 1, 3-7, 26-33 and 35-50 have been cancelled, and claims 51-65 have been added. Thus, claims 51-65 are pending and ready for further action on the merits. No new matter has been added by way of the new claims. Reconsideration is respectfully requested in light of the following remarks.

Interview Summary

Applicants and Applicants' representative would like to thank the Examiner for taking the time to interview on October 12, 2004. The gist of the interview is as appears in the interview summary dated October 28, 2004. The new claims that are referred to in the Examiner's Interview Summary are the claims that are currently pending. Applicants and Applicants' representative would like to thank the Examiner for acknowledging that he instantly pending claims overcome the rejection under 35 U.S.C. §112.

Election/Restriction

The Examiner asserts that new claims 39-49 are directed to a different invention than the elected claims. The Examiner notes that the withdrawn claims 26-28 and 36-37 have been amended. Accordingly, the Examiner asserts that claims 26-28, 36-37, and 39-49 are not examined. Applicants have canceled claims 39-49 so any objection to these claims is moot. Moreover, none of the new claims are directed to nucleic acid claims. Thus, Applicants submit that there should be no restriction requirement with the instantly pending claims.

Rejections under 35 U.S.C. §112, second paragraph

The Examiner rejects claims 3-5 and 30-33 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner asserts that claim 3 does not further limit claim 1. Claim 3, and claims dependent therefrom have been canceled. Thus, this rejection is moot. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 U.S.C. §112, first paragraph

The Examiner rejects claims 1, 3, 6, 30-32, 35, 38, 49, and 50 under 35 U.S.C. §112, first paragraph, as not being enabled for an isolated mammalian protein having anti-angiogenic activity that minimally comprises SEQ ID NO: 4 or comprises an amino acid sequence having at least 80%, 90%, or 95% homology to SEQ ID NO: 2, 3, or 4.

Applicants have canceled claims 1, 3, 6, 30-32, 35, 38, 49, and 50 so the rejection is moot with respect to those claims. Applicants have added new claims 51-65 based on the Examiner's assertion of what the Examiner says is enabled.

In particular, the Examiner has acknowledged in the Interview Summary that all 35 USC §112 rejections have been obviated by the new claims. Moreover, the Examiner acknowledged in the Office Action of June 29, 2004 that claims directed to at least 98% sequence homology would be allowable. Thus, in an effort to expedite prosecution, Applicants have amended the claims. Accordingly, withdrawal of the rejection is warranted and respectfully requested.

The Examiner has also rejected claims 7 and 30 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. The Examiner asserts that the

specification does not provide any partial structure of the peptides of claim 7, any physical or chemical characteristics of the peptides, or any functional characteristics coupled with a known or disclosed correlation between structure and function. Applicants have canceled these claims so the rejection is moot. Moreover, none of the peptides that appeared in claim 7 are currently being claimed. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, Applicants believe that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact the undersigned in the Washington metropolitan area at the phone number listed below.

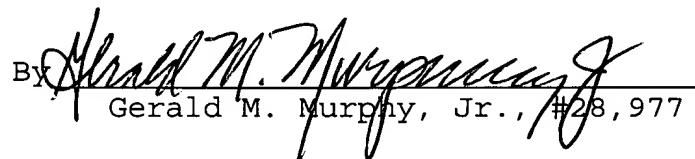
Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of two (2) months to November 29, 2004 in which to file a reply to the Office Action. The required fee of \$430.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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